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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
JUL 18 2001
PUBLIC SERVICE
COMMISSION

IN THE MATTER OF:

THE JOINT APPLICATION OF E.ON AG,)	
POWERGEN PLC, LG&E ENERGY CORP.,)	CASE NO.
LOUISVILLE GAS AND ELECTRIC COMPANY, AND)	2001-104
KENTUCKY UTILITIES COMPANY FOR APPROVAL)	
OF AN ACQUISITION)	

POST HEARING BRIEF OF ROBERT L. MADISON

THIS IS THE BRIEF OF ROBERT L. MADISON WHICH CONTAINS MY RECOMMENDATIONS TO THE KENTUCKY PUBLIC SERVICE COMMISSION IN THIS CASE.

1. THE PSC NOT APPROVE THE ACQUISITION UNLESS THE APPLICANTS PROVIDE THE ACTUAL INFORMATION ON THE COSTS AND SAVINGS OF THE RECENT LAYOFFS OF LG&E AND KU & SPLIT THE SAVINGS 50/50 BETWEEN THE COMPANY AND THE CUSTOMERS. MY PRIMARY RECOMMENDATION FOR SHARING THE SAVINGS WOULD BE TO REDUCE THE ACTUAL ELECTRIC RATES FOR ALL CUSTOMERS BY THE SAME PERCENTAGE. THE SECONDARY METHOD WOULD BE TO GRANT ALL CUSTOMERS A CREDIT EACH MONTH BASED ON THE AMOUNT OF ELECTRICITY USED.

THE APPLICANTS ARGUE THAT THE EARNING SHARING MECHANISM WILL ENABLE THE CUSTOMERS TO SHARE THE SAVINGS. I BELIEVE THIS METHOD HAS SEVERAL PROBLEMS:

A. THE CALCULATION OF THE ESM IS A VERY COMPLICATED PROCEDURE. IT CONTAINS LOTS OF INFORMATION PROVIDED BY THE COMPANY, ACCOUNTING DATA, NUMEROUS CALCULATIONS AND FORMULAS. THE DATA CAN BE WITHHELD, DISTORTED DELAYED AND MANIPULATED.

B. THE APPLICANTS DO NOT WANT TO SHARE THE SAVINGS WITH CUSTOMERS. THE APPLICANTS WANT TO KEEP THE SAVINGS THEMSELVES. IN THE POWERGEN MERGER CASE, POWERGEN MADE ARGUMENTS THAT NO SAVINGS COULD BE IDENTIFIED. E.ON IS NOW MAKING SIMILAR ARGUMENTS. IN THIS

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CASE, THE COMPANY HAS DELAYED PROVIDING INFORMATION TO THE PARTIES CONCERNING THE SAVINGS AND COST OF THE LAYOFFS, NOT PROVIDED THE DATA THE PSC HAS REQUESTED AND HAS USED A SHELL GAME OF HAVING NUMEROUS WITNESSES PROVIDE INFORMATION. DURING THE HEARING, COMPANY WITNESSES KEPT DEFERRING QUESTIONS TO OTHER WITNESSES. EVEN WHEN THE LAST WITNESS WAS TESTIFYING QUESTIONS WERE NOT ANSWERED. THESE TACTICS HAVE BEEN USED SUCCESSFULLY BY THE COMPANY.

THE CALCULATION OF THE TOTAL SAVINGS AND THEN SPLITTING IT IS MUCH SIMPLER AND LESS SUBJECT TO MANIPULATION. THE PSC IS MISSING A GOOD NEGOTIATING OPPORTUNITY TO GET THE COMPANY TO PROVIDE THE INFORMATION AND AGREE TO SPLIT THE SAVINGS NOW. IF THIS IS DONE IN A SEPARATE PROCEEDING, THE COMPANY HAS NO REASON TO PROVIDE THE INFORMATION. NO REASON TO AGREE TO SHARE THE SAVINGS. NO REASON TO RESOLVE THE ISSUE. THE APPLICANTS DO NOT WANT TO DELAY THE ACQUISITION BECAUSE OF SHARING THE SAVINGS FROM THE LAYOFFS. THE APPLICANTS ARE UNDER A TIMEFRAME IN THIS CASE IN WHICH THEY DO NOT WANT A DELAY. IF THE SAVINGS FROM THE LAYOFFS ARE DETERMINED IN A SEPARATE PROCEEDING, DELAYING TACTICS ARE TO THE APPLICANTS ADVANTAGE.

BY IMPLEMENTING THE LAYOFFS NOW, THE COMPANIES CAN REDUCE THE SHARINGS OF THE ESM. THE COSTS IN THESE TYPES OF ACTIONS ARE GENERALLY UP FRONT, LASTING APPROXIMATELY ONE YEAR. THE SAVINGS BEGIN TO APPRECIATE AFTER THAT TIME, BECOMING GREATER AS TIME GOES ON. BY THE TIME THE ESM HAS EXPIRED, THE COMPANIES MAY VERY WELL BE OWNED BY E.ON, ELECTRICITY IN KY MAY HAVE BEEN DEREGULATED, THE GENERATING PLANTS MAY BE SOLD, THE TRANSMISSION LINES SOLD, ETC. THE SAVINGS MAY NOT BE ABLE TO BE SHARED.

SHARING THE SAVINGS FROM THE LAYOFFS WOULD GIVE THE CUSTOMERS A BENEFIT, MAKING THE E.ON ACQUISITION IN THE PUBLIC INTEREST.

2. THE E.ON PROPOSED REORGANIZATION, AFTER THE ACQUISITION, SHOULD NOT BE APPROVED BY THE PSC. E.ON HAS PROPOSED THAT IT WILL DIRECTLY CONTROL LG&E, WITH POWERGEN MANAGING THE COMPANY. THIS LEGAL SITUATION JEOPARDIZES THE COMMITMENTS MADE BY POWERGEN. HOW CAN POWERGEN BE HELD TO THE COMMITMENTS WHEN THEY NO LONGER CONTROL LG&E & KU ? WHAT IS THE LEGAL VALUE OF E.ON STANDING BEHIND

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THE COMMITMENTS OF POWERGEN ? WHAT IS THE PSC RECOURSE IF THE COMMITMENTS ARE VIOLATED ? IT APPEARS POWERGEN HAS VIOLATED THE COMMITMENT RELATED TO THE VARIOUS BOARDS OF DIRECTORS. I RECOMMEND THAT IF THE COMMISSION DOES APPROVE THE ACQUISITION AND REORGANIZATION PROPOSED BY E.ON, THE PSC ORDER CONTAIN ALL THE PREVIOUS POWERGEN COMMITMENTS, SIGNED OFF ON BY E.ON. SOME TYPE OF PENALTY FOR VIOLATING THE COMMITMENTS WOULD ALSO BE APPROPRIATE.

POWERGEN HAS NUMEROUS REGULATORY REQUIREMENTS IF THEY CONTROL LG&E. IF THEY DON'T CONTROL LG&E THEY HAVE FEWER LEGAL RESTRICTIONS RELATED TO PUHCA & FUCO. E.ON IS PROPOSING THAT POWERGEN HAVE THE SAME STATUS AS BEFORE THE REORGANIZATION. THIS APPEARS TO VIOLATE THE SAID REGULATIONS. THE SEC MAY BE RELYING ON THE PSC TO RESOLVE THIS ISSUE. IF THE PSC APPROVES THE PROPOSED REORGANIZATION RELYING ON THE SEC TO LOOK AT THE PUHCA AND FUCO REGULATIONS. NO REGULATOR MAY REVIEW THIS ISSUE.

3.THE ISSUE OF THE SAFETY AND RELIABILITY OF THE ELECTRIC & GAS SERVICE, DUE TO THE LARGE AMOUNT OF LAYOFFS AT LG&E AND KU, CONCERNS ME. E.ON WAS INVOLVED IN A RADIOACTIVE CONTAMINATION PROBLEM IN FRANCE WHICH THEY REFUSED TO ANSWER QUESTIONS ABOUT. SCOTTISH POWERS' ACQUISITION OF PACIFICORP INVOLVED THE BENCHMARKING AND REDUCTIONS THAT POWERGEN IS COMPLETING HERE. THE PACIFICORP HUNTER POWER PLANT HAD A FIRE RESULTING IN MILLIONS OF DOLLARS IN ADDITIONAL COSTS. THE VDT PRESENTATIONS HAD SEVERAL ITEMS WHICH INDICATED A WILLINGNESS TO TAKE MORE RISKS ON SAFETY AND MAINTENANCE TO REDUCE COSTS. KU HAS ASSERTED IN COURT THAT THE PSC DID NOT HAVE JURISDICTION OVER THE WILLFULL SAFETY VIOLATIONS OF CONTRACTORS. DURING THE HEARING ON 05-06 JUL, STAFFIERI STATED THE COMPANY HAD CHANGED THEIR POSITION AND THEY WOULD AGREE THAT THE PSC HAD JURISDICTION OVER THE SAFETY VIOLATIONS OF CONTRACTORS.

MY RECOMMENDATIONS ON THE ISSUE OF SAFETY ARE:

A.THE PSC PLACE A COMMITMENT IN THE ORDER IN THIS CASE THAT THE APPLICANTS SIGN OFF ON THE PSC HAVING JURISDICTION OVER THE SAFETY VIOLATIONS OF CONTRACTORS.

B.THE PSC PLACE A COMMITMENT IN THE ORDER THAT THE APPLICANTS SIGN OFF ON THAT THE COMPANY HAS TO PAY OUT OF THEIR PROFITS FOR

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SAFETY RELATED PROBLEM DUE TO DOWNSIZING. THIS WOULD INCLUDE ELECTRICAL INTERRUPTIONS DUE TO STORMS AND GENERATION PLANTS DOWN DUE TO REDUCED PERSONNEL AND MAINTENANCE. THE RISK MUST BE BORN 100% BY THE COMPANY. NONE OF THESE COSTS SHOULD BE BORN BY THE RATE PAYERS.

4. THE ACCURACY, RELIABILITY AND MANIPULATION OF INFORMATION OF THE DATA AND TESTIMONY OF THE APPLICANTS WITNESSES CONCERNS ME. DR. COOMES INCLUDED A CHART OF THE COSTS OF ELECTRICITY FOR RESIDENTIAL CUSTOMERS IN 2000 FOR 1500 KWH PER MONTH. THE DATA FOR LEXINGTON WAS \$62.29 AND LOUISVILLE \$67.64. THIS INDICATES THAT LOUISVILLE ELECTRIC RATES ARE 8.6% HIGHER THAN LEXINGTON. I PROVIDED TESTIMONY THAT SHOWED THAT FOR 1500 KWH FOR A YEAR, THE COST FOR ELECTRICITY FOR LOUISVILLE RESIDENTIAL CUSTOMER WAS 33.03% HIGHER THAN THE KU FERS AND 26.13% HIGHER THAN KU RS. THIS INFORMATION HAD DATA ON LG&E'S WINTER AND SUMMER RATES. COOMES DATA INCLUDED ONLY THE MUCH LOWER WINTER RATE. THIS INFORMATION VARIES BY A MAGNITUDE OF 3-4 TIMES COMPARED TO COOMES TESTIMONY.

COOMES TESTIFIED AT THE HEARING THAT THE REASON FOR THE DIFFERENCE IN THE DATA I PRESENTED AND HE PRESENTED WAS I ONLY USED THE ACTUAL ELECTRICITY CHARGE AND NOT THE OTHER LINE CHARGES. COOMES STATED AT THE HEARING IF THAT DATA WAS INCLUDED THE 8.6% DIFFERENCE HE SHOWED IN HIS CHART WOULD BE VERIFIED. IN MY DATA REQUEST 17 (D) & (F) I ASKED THE COMPANY TO PROVIDE THE SHEETS TO SHOW THE ACTUAL COSTS FOR ELECTRICITY FROM KU & LG&E INCLUDING, ALL CHARGES. CLEARLY THE REASON THE COMPANY DID NOT PROVIDE THE INFORMATION IS THAT IT WOULD SHOW COOMES TESTIMONY WAS MISLEADING AND INACCURATE.

COOMES TESTIFIED INDICATING THAT THE COSTS FOR NATURAL GAS IN KENTUCKY ARE LOWER THAN THE SURROUNDING STATES FOR RESIDENTIAL CUSTOMERS. (SEE MADISON DATA REQUEST 17 (A)) IN M-17 (A) I ASKED FOR SPECIFIC DATA, BUT COOMES DID NOT PROVIDE IT. AT THE HEARING I PLACED MADISON EXHIBIT #1 INTO THE RECORD. THIS CONTAINS NATURAL GAS DATA FROM THE U.S. DEPARTMENT OF ENERGY FOR KY AND THE SURROUNDING STATES FROM JAN-DEC 2000. IN JAN 2000, THE PSC RENDERED ITS DECISION IN THE LG&E PBR CASE (98-426) WHICH DETERMINED THAT LG&E WAS ILLEGALLY SUBSIDIZING LOW GAS RATES WITH HIGH ELECTRIC RATES. THE PSC ORDERED A 5% REDUCTION IN ALL ELECTRIC RATES. SUBSEQUENTLY, LG&E FILED A GAS

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RATE CASE (2000-080). IN SEP 2000, A RATE INCREASE OF ABOUT 20 MILLION DOLLARS WAS GRANTED FOR NATURAL GAS. THESE TWO EVENTS CAN BE SEEN AFFECTING THE DATA IN THE CHART OF MADISON EXHIBIT #1. MY CONCLUSION IS THE PRICE PAID FOR NATURAL GAS BY RESIDENTIAL CUSTOMERS IN KY IS AVERAGE RELATIVE TO THE SURROUNDING STATES. PREVIOUS TO THE JAN- DEC 2000 DATA IN MADISON EXHIBIT #1, IF THE NATURAL GAS PRICES IN KY WERE LOW RELATIVE TO OTHER STATES A PARTIAL REASONS WAS LG&E'S SUBSIDY.

MY RECOMMENDATIONS TO THE PSC ARE TO REGARD THE COOMES TESTIMONY AS BEING INACCURATE, MISLEADING AND UNRELIABLE. THE CREDIBILITY OF ALL APPLICANT WITNESSES AND INFORMATION SHOULD BE VIEWED AS BEING SUSPECT. IN THE BEGINING OF PSC ORDERS THERE IS AN INTRODUCTORY SECTION. I RECOMMEND THE FOLLOWING LANGUAGE BE USED BY THE PSC IN THIS ORDER:

'LG&E PROVIDES ELECTRIC SERVICE TO RESIDENTIAL CUSTOMERS THAT IS MUCH HIGHER THAN THE ELECTRIC SERVICE PROVIDED BY KU. THE COST OF NATURAL GAS TO RESIDENTIAL CUSTOMERS IN KENTUCKY IS AVERAGE WHEN COMPARED TO THE SURROUNDING STATES.'

5.I HAVE CONCERNS ABOUT THE CREDIBILITY OF THE APPLICANTS INFORMATION AND WITNESSES TESTIMONY BECAUSE OF FAILURE TO PROVIDE INFORMATION TO DATA REQUESTS. THE PSC ASKED OVER AND OVER AGAIN FOR THE DATA ON THE COSTS AND SAVINGS FROM THE LAYOFFS. THE COMPLETE INFORMATION WAS NEVER PROVIDED. NUMEROUS DATA REQUESTS OF MINE WERE NOT ANSWERED INCLUDING A REPORT OR ANALYSIS OF THE E.ON POWERGEN OFFER, THE COST FOR E.ON TO PRODUCE ELECTRICITY FROM VARIOUS SOURCES, THE DUTIES AND RESPONSIBILITIES OF THE METRO UNITED WAY BOARD, THE COSTS OF NATURAL GAS TO RESIDENTIAL CUSTOMERS IN KY AND SURROUNDING STATES, THE PRICE FOR LG&E AND KU RESIDENTIAL ELECTRIC SERVICE, INFORMATION OF UNIONS AND WORKING CONDITIONS OF E.ON GERMAN WORKERS AND INFORMATION ON BACKFILING JOBS THROUGH CONTRACTORS.

MY RECOMMENDATION TO THE PSC ON THIS ISSUE IS TO BE MORE WILLING TO NOT APPROVE THE E.ON ACQUISITION BECAUSE OF LACK OF APPLICANT COOPERATION.

6.I BELIEVE THAT THE COMMITMENT IN PSC CASE 2000-095, APPENDIX A, PAGE

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10, ITEM 14, HAS BEEN VIOLATED. THE COMMITMENT WAS THAT POWERGEN WOULD ADOPT A NEUTRAL POSITION REGARDING STATE-WIDE LEGISLATION FOR A LINE ITEM CHARGE FOR A LOW-INCOME SERVICE FUND. IN THE ANSWER TO M-7 (F), PAGE 4 OF 4, LG&E STATES:

'IN CONJUNCTION WITH LOW INCOME GROUPS LG&E HAS COLLABORATED TO PASS LAWS TO CREATE A TARIFF FILING, TO BE EFFECTIVE IN JUNE OF THIS YEAR, TO PROVIDE HOME ENERGY ASSISTANCE, THROUGH A UNIVERSAL SERVICE FUND, FOR LOW INCOME CUSTOMERS.'

IT APPEARS THAT LG&E HAS NOT BEEN NEUTRAL IN THE PASSING OF THIS LAW. MY READING OF THE HB 305 IS THAT IT WAS NOT DESIGNED TO AID LOW INCOME GROUPS. I SEE NO MENTION OF THAT LANGUAGE.

IN THE WRITTEN AND ORAL TESTIMONY OF JACK BURCH FOR CAC HE RECOMMENDS THAT THE APPLICANTS COMMIT TO A USF FOR THE KU TERRITORY (PRESUMABLY FOR LOW INCOME CUSTOMERS). I AM OPPOSED TO THIS COMMITMENT BEING OFFERED TO THE APPLICANTS IN THIS CASE.

THERE ARE ALREADY NUMEROUS EXISTING PROGRAMS TO HELP THE LOW INCOME PAY THEIR UTILITY BILLS. LIHEAP, WINTER CARE, WINTER HELP AND VARIOUS FEDERAL, STATE, LOCAL AND CHARITABLE ENTITIES. FREQUENTLY WHEN SPECIFIC HOT OR COLD WEATHER IS EXPERIENCED, ADDITIONAL MONEY IS MADE AVAILABLE. THE CRITERIA FOR ASSISTANCE IS BASED ON FEDERAL POVERTY INCOME AND FAMILY SIZE. THE MONEY IS RAISED THROUGH TAXES OR CHARITIES. NOW MR. BURCH WANTS ANOTHER REVENUE STREAM THAT WILL BE MANDATORY, FUNNELED TOWARDS LOW INCOME.

I FEEL IF A USF IS ESTABLISHED IT SHOULD BAR LOW INCOME INDIVIDUALS FROM GETTING FUNDS. THE CRITERIA I FEEL SHOULD BE INCLUDED IF A USF IS IMPLEMENTED ARE:

A.HELP INDIVIDUALS/FAMILIES THAT ARE NOT LOW INCOME.

B.THE ASSISTANCE SHOULD BE LIMITED AND TEMPORARY IN NATURE. A LIFETIME DOLLAR LIMIT SHOULD BE ESTABLISHED. I WOULD SUGGEST \$1000 FOR THE HEAD OF THE HOUSEHOLD. THE USF WOULD HELP MORE INDIVIDUALS BY HAVING MORE ELIGIBLE FOR ASSISTANCE. THE SCOPE OF THE FUNDING WOULD BE LESS AND COST RATE PAYERS LESS.

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C.PRIORITY WOULD BE GIVEN TO FAMILIES WITH CHILDREN BEING RAISED BY THEIR BIOLOGICAL PARENTS.

D.THE PROGRAM NOT BE ADMINISTERED BY A CHARITY, RELIGIOUS GROUP OR ANY ENTITY THAT THE APPLICANTS HAVE INDIVIDUAL(S) IN POLICY INFLUENCING POSITIONS IN THE ORGANIZATION.

E.THE CRITERIA FOR ASSISTANCE WOULD BE THE NEED FOR HELP IN UTILITY PAYMENTS. UNUSUAL EVENTS LIKE JOB LAYOFFS, TEMPORARY ILLNESS OR INJURY, DIVORCE, DEATH IN FAMILY, OR CARE FOR PARENT, ETC. WOULD QUALIFY FOR THE USE.

.MANY FAMILIES ARE HAVING PROBLEMS WITH PAYING ENERGY BILLS DUE TO THE RECENT LARGE INCREASES IN GASOLINE, NATURAL GAS AND (IN SOME PARTS OF THE U.S.) ELECTRICITY. I BELIEVE THIS IS THE MAJOR REASON FOR THE CURRENT ECONOMIC SLOWDOWN IN THE U.S.

I FEEL THERE ARE PROBLEMS WITH THE CURRENT LOW INCOME APPROACH TO A USE. ONE OF THE PRIMARY GROUPS IT HELPS ARE FEMALE HEADS OF HOUSEHOLDS. I DO NOT FEEL POLITICAL AND SOCIAL EFFORTS SHOULD ENCOURAGE THIS TO BE THE STANDARD FAMILY.

IN BURCHS' TESTIMONY HE ASKS THE PSC TO PLACE A COMMITMENT TO THE APPLICANTS TO ESTABLISH AN EVALUATION PROCESS TO MONITOR THE LEVELS OF CUSTOMER SERVICE. I WOULD NOT OPPOSE THIS BEING PLACED AS A COMMITMENT TO THE APPLICANTS IN THIS CASE.

BURCH DESCRIBES PREPAID METERS AND ENCLOSURES AN ARTICLE WITH HIS TESTIMONY. I AGREE THAT THE USE OF THESE METERS COULD BE FORCED AND COERCED ON CERTAIN PEOPLE HAVING THE EFFECT OF NO DOCUMENTATION ON UTILITY CUTOFFS.

THE ARTICLE BY COLTON ON PREPAID METERS AND LOW INCOME UTILITY CONSUMERS ON PAGE 292 & 293 STATES:

'...THE PENN STATE STUDY FOUND...PAYMENT TROUBLED GROUPS...CUTTING BACK ON... VACATIONS AND GASOLINE FOR AUTOMOBILES.'

I WOULD THINK THAT LOW INCOME INDIVIDUALS WHO COULD NOT PAY THEIR UTILITY BILLS WOULD NOT BE ABLE TO AFFORD VACATIONS OR

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AUTOMOBILES.

RELATED TO LOW INCOME ISSUES I RECOMMEND THE PSC NOT PLACE A COMMITMENT IN THIS CASE FOR THE APPLICANTS TO ESTABLISH A USE. A COMMITMENT FOR MONITORING CUSTOMER SERVICE AND RELIABILITY IS ACCEPTABLE.

7. CONCERNING THE ORAL & WRITTEN TESTIMONY OF GALLATIN STEEL AND MR. GREENE, HE STATES THAT LG&E AND POWERGEN HAVE TREATED HIS COMPANY DIFFERENTLY SINCE POWERGEN ANNOUNCED THE ACQUISITION OF LG&E. GREENE STATES THAT LG&E HAS INTERRUPTED THE ELECTRIC SERVICE MORE FREQUENTLY THAN IN THE PAST AND IS CHARGING ABOUT 45% MORE FOR ELECTRICITY WITHOUT INFORMING THE COMPANY IN ADVANCE OF THE COSTS, THE ACTIONS OF LG&E VIOLATE A LETTER AGREEMENT AND ARE THREATENING THE VIABILITY OF HIS COMPANY. GREENE WANTS THE PSC TO PLACE A COMMITMENT IN THIS CASE FOR IN STATE CUSTOMERS TO GET BETTER PRICES THAN OUT OF STATE CUSTOMERS.

I FEEL THIS IS AN INAPPROPRIATE AND UNWORKABLE RECOMMENDATION. LG&E CHARGES DIFFERENT RATES TO INDUSTRIAL, COMMERCIAL, SPECIAL CONTRACT AND RESIDENTIAL CUSTOMERS. THE CHARGE TO WHOLESALE CUSTOMERS IS ON AVERAGE LESS THAN ANY OF THE RETAIL CHARGES.

MY RECOMMENDATION TO THE PSC RELATIVE TO GALLATIN STEEL IS THAT THE APPLICANTS BE GIVEN A COMMITMENT THAT THEY WILL NOT TREAT GALLATIN STEEL DIFFERENTLY THAN THEY DID BEFORE THE POWERGEN ANNOUNCEMENT OF THE LG&E ACQUISITION. LG&E ALSO BE REQUIRED TO NOTIFY GALLATIN STEEL IN ADVANCE OF THE CHARGE FOR THE ELECTRICITY THEY WILL PROVIDE, SO GALLATIN CAN MAKE A MANAGEMENT DECISION ON RUNNING THEIR BUSINESS.

8. I RECOMMEND THAT THE PSC OFFER THE FOLLOWING ADDITIONAL COMMITMENTS TO E.ON TO APPROVE THE ACQUISITION:

A. TO CONTINUE THE BENEFITS FOR LG&E AND KU EMPLOYEES AS AGREED TO IN EXHIBIT 4.1 E.ON AND POWERGEN LETTER AGREEMENT. THIS DOES NOT REQUIRE ANYTHING THAT THEY HAVE NOT ALREADY AGREED TO.

B. NOT TO PUSH DOWN THE PREMIUM PAID FOR POWERGEN STOCK, AS WELL AS ANY OTHER ASSOCIATED COSTS, TO LG&E OR KU FOR ACCOUNTING OR

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RATE MAKING PURPOSES. UTILITY CUSTOMERS SHOULD NOT HAVE TO PAY FOR THIS COST.

C.NO INDIVIDUAL OF THE APPLICANTS WILL BE ABLE TO INFLUENCE THE POLICY OF ANY ENTITY THAT WOULD ADMINISTER A USE. I FEEL THIS IS A CONFLICT OF INTEREST.

D.THE PREVIOUS COMMITMENT IN CASE 2000-095, APPENDIX A, PAGE 9, ITEM 11, CONCERNING AS LONG AS POWERGEN OWNS, CONTROLS, OR MANAGES LG&E OR KU, THERE WILL BE A SEAT ON THE POWERGEN BOARD OCCUPIED BY A UNITED STATES CITIZEN WHO RESIDES IN THE LG&E OR KU SERVICE TERRITORY. I RECOMMEND THERE SHOULD BE A SEAT ON THE SUPERVISORY BOARD OF E.ON FOR THIS SAME INDIVIDUAL. SINCE E.ON IS ASKING THE PSC TO APPROVE A REORGANIZATION IN WHICH POWERGEN WILL NO LONGER OWN LG&E, THE FORMER LANGUAGE OF 'OWNS, CONTROLS OR MANAGES' SHOULD BE REPLACED WITH 'HAS ANY INFLUENCE OVER' AND BE SIGNED OFF ON BY POWERGEN AND E.ON.

9.I RECOMMEND THE PSC OFFER E.ON A COMMITMENT FOR THE ACQUISITION THAT LG&E AND KU ACTUALLY COMBINE INTO ONE UTILITY, WITH A UNIFIED REVENUE REQUIREMENT & UNIFORM ELECTRIC RATES. THE SAVINGS SHOULD BE SPLIT 50/50 WITH THE CUSTOMERS WITH ALL CUSTOMERS RECEIVING THE SAME PERCENTAGE DECREASE IN ELECTRIC RATES.

10.I AM MAKING TWO PREDICTIONS RELATED TO THIS CASE. KENTUCKY WILL DEREGULATE ELECTRICITY WITHIN THE NEXT YEAR AND E.ON WILL HAVE PROBLEMS IN GETTING THE POWERGEN ACQUISITION APPROVED BY U.S. GOVERNMENT ENTITIES. RECENTLY THE EU DISAPPROVED THE MERGER OF G.E. AND HONEYWELL. THE U.S. TREASURY SECRETARY RECENTLY PUBLICLY STATED THERE MAY BE RETALIATION FOR THIS ACTION.

11.IS THE E.ON ACQUISITION IN THE PUBLIC INTEREST ? IT IS NOT KNOWN WHAT E.ON WILL DO IF THEY OWN LG&E AND KU. E.ON HAS STATED ONE OF THE BENEFITS OF THE ACQUISITION WOULD BE LOWER FINANCE COSTS SHARED THROUGH THE ESM. I AM NOT SURE THE SAVINGS WOULD BE REALIZED THROUGH THE ESM. IN CASE 2000-386, CONCERNING NEW POLLUTION EQUIPMENT, IT WAS DISCOVERED THAT LG&E HAD REFINANCED POLLUTION BONDS BUT HAD NOT SHARED THE SAVINGS WITH CUSTOMERS. I RECOMMEND THAT THE PSC OFFER E.ON A COMMITMENT AS A CONDITION OF THE ACQUISITION THAT ANY SAVINGS IN FINANCING SHOULD BE SHARED 50/50

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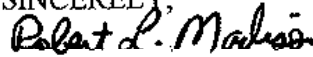
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WITH THE CUSTOMERS. I RECOMMEND THE SAVINGS RESULT IN A DECREASE IN ELECTRIC COSTS, WITH ALL CLASSES OF CUSTOMERS GETTING THE SAME DECREASE.

THERE MUST BE SOME BENEFIT TO THE PUBLIC FOR THE PSC TO APPROVE THE ACQUISITION. SIGNIFICANT MONETARY SAVINGS, CONTAINED IN SEVERAL OF MY RECOMMENDATIONS WOULD SATISFY THIS REQUIREMENT.

I CERTIFY THAT ON 17 JUL 2001, COPIES OF THIS BRIEF WERE MAILED REGULAR MAIL TO THE PSC. ON 20 JUL 2001, COPIES WERE MAILED REGULAR MAIL TO THE REST OF THE PARTIES.

SINCERELY,



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